IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2091 of 2016

Arising Out of PS.Case No. -92 Year- 2011 Thana -PARSAUNI District- SITAMARHI

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1. Suman Sharma, S/O Krishnandan Sharma, resident of village- Barka Gaon Keshrinagar, P.S.- Karja, Dist- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kanchan Kumari D/O Sri Ram Naresh Sharma, residing at village- Balha, P.S.- Parsauni, Dist.- Sitamarhi.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Mahendra Thakur
For the Opposite Party/s : Mr. Abhay Kumar No. 1 (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 22-05-2017 Heard learned counsels for the petitioner, learned counsel for the O.P. No.2 and learned APP for the State.

The present application has been filed for quashing the order dated 31.10.2012 passed by the learned C.J.M. Sitamarhi in Parsauni P.S. Case No.92 of 2011 whereby process has been directed to be issued after cognizance being taken under sections 341,323,504 and 498A of the Indian Penal Code and section 3 of Domestic Violence Act, 2005.

It is submitted by learned counsel for the petitioner that the petitioner is husband of the informant and is still ready to settle the issue.

Learned counsel for the O.P. No. 2 submits that after framing of charge, the trial is on the verge of conclusion as all the

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witnesses except I.O. have been examined.

In view of the advance stage of the trial, virtually this application has become infructuous. Hence, this court is not inclined to interfere in the matter.

However, the Apex Court, in the case of K. Srinivas Rao Vs. Vs. D.A. Deepa, (2013) 5 SCC 226, recognized mediation as an alternative dispute resolution method in matrimonial matters and hence, directed the criminal courts dealing with complaint under section 498A IPC, to refer the parties to mediation centre, if they feel that there exists elements of settlement if both sides agree for the same. Paragraph nos. 45 and 46, read as follows:-

> *"45. We would, however, like to clarify that reduction of burden of cases on the courts will, however, be merely an incidental benefit and not the reason for sending the parties for mediation. We recognise "mediation" as an effective method of alternative dispute resolution in matrimonial matters and that is the reason why we want the parties to explore the possibility of settlement through mediation in matrimonial dispute.*
>
> *46. We, therefore, issue directions, which the courts dealing with the matrimonial matters shall follow.*
>
> *46.1. In terms of Section 9 of the Family Courts Act, the Family Courts shall make all efforts to settle the matrimonial*

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disputes through mediation. Even if the counsellors submit a failure report, the Family Court shall, with the consent of the parties, refer the matter to the mediation centre. In such a case, however, the Family Courts shall set a reasonable time-limit for mediation centres to complete the process of mediation because otherwise the resolution of the disputes by the Family Court may get delayed. In a given case, if there is good chance of settlement, the Family Court in its discretion, can always extend the time-limit.

46.2. The criminal courts dealing with the complaint under Section 498-A IPC should, at any stage and particularly, before they take up the complaint for hearing, refer the parties to mediation centre if they feel that there exist elements of settlement and both the parties are willing. However, they should take care to see that in this exercise, rigour, purport and efficacy of Section 498-A IPC is not diluted. Needless to say that the discretion to grant or not to grant bail is not in any way curtailed by this direction. It will be for the court concerned to work out the modalities taking into consideration the facts of each case.

46.3. All mediation centres shall set up pre-litigation desks/clinics; give them wide

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publicity and make efforts to settle matrimonial disputes at pre-litigation stage."

Hence, in view of the submission on behalf of the petitioner that he is still ready to settle the issue, let the learned Trial Court make an effort even at this stage to get the issue resolved through process of mediation, if both the parties agree for the same.

Accordingly, the application is disposed of.

(Dinesh Kumar Singh, J)

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